

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 12 August 2024

Public Authority: The Council of St Mary's University
Address: Twickenham
Waldegrave Road
Strawberry Hill
Twickenham
TW1 4SX

Decision (including any steps ordered)

1. The complainant has requested information relating to staff workload and stress. St Mary's University Twickenham ("the public authority") disclosed information in response to the request.
2. The Commissioner's decision is that, in response to part 2 of the request, the public authority has failed to comply with its section 1 (general right of access to information held by public authorities) of FOIA.
3. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation:
 - Confirm or deny whether it holds information of the description specified in part 2 of the request.
 - If held, disclose this information to the complainant unless a relevant exemption under part 2 of FOIA applies, in which case a valid refusal under section 17 (refusal of request) must be issued.
4. The public authority must take these steps within 30 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of the Act and may be dealt with as a contempt of court.

Request and response

5. On 27 November 2023, the complainant made the following request for information under FOIA:

"1. Does the University have a workloading system or model for academic staff? This might come under various names such as 'Workload Allocation Model'.

a) If you do, please could you send me a copy?

b) If there have been changes, please also send me a copy of any/all older versions that were in force during academic years 2020-21, 2021-22 and 2022- 23.

c) If there are instead faculty or department models, please send these to me.

2. Has the University conducted an organisational risk assessment of stress? This might be as a stand-alone stress risk assessment, or as part of a larger one. If so please could you tell me when it was last conducted, and if possible send me a copy?

3. Please could you send me a copy of whichever policy covers the management of stress at work? This might be a standalone stress policy, or as part of a larger health and safety policy.

4. For each of the academic years 2020-21, 2021-22 and 2022-23, please could you send me:

a) The number of working days lost to sickness absence of any kind.

b) The number of working days lost to sickness absence for mental health conditions, including stress.

c) The number of staff employed in that academic year."

6. The public authority responded on 16 January 2024. It disclosed a copy of the workload allocation model in response to part 1, a copy of the stress at work policy in response to part 3 and the information requested in part 4.

7. In response to part 2 of the request, the public authority confirmed:

"The University's approach to managing stress related absence, is based on an assessment of data and risk, correlating results from the Staff Engagement Survey and Sickness Absence at a School/Departmental level to enable targeted interventions as required."

8. On the same day, the complainant asked for clarity regarding question 2 of their request:

"I appreciate the information given but I'm afraid I can't tell from your answer whether or not the University has conducted an organisational risk assessment of stress, and if so when it was last conducted."

9. On 18 January 2024 the University responded and confirmed:

"We conduct our risk assessment on an ongoing basis."

10. Again, on 18 January 2024 the complainant raised concerns that their original request, whether a specific risk assessment in relation to stress had been conducted, and if so, for a copy to be provided, hadn't been answered.
11. On 1 February 2024 the University provided further information about the data it uses to monitor stress. It stated there was nothing further to add.

Scope of the case

12. The complainant contacted the Commissioner on 6 April 2024, to complain about the lack of internal review and the public authority's response to part 2 of the request.
13. The Commissioner attempted to resolve this matter informally by writing to the public authority, on 17 July 2024 and 2 August 2024, to explain that a question can be a valid request under FOIA and, in this scenario, provided the yes/no answer the complainant was asking for would be easiest. The Commissioner asked the public authority to provide its internal review outcome and as part of this review, confirm whether the information was held. If so, the information would need to be disclosed or submissions provided to the Commissioner as to why the information was exempt.
14. Neither of the Commissioner's attempts at informal resolution were acknowledged or responded to.
15. Therefore, the Commissioner considers that the scope of his investigation is to determine whether the public authority has fully complied with its obligations under section 1 of FOIA.

Reasons for decision

Section 1 – general right of access to information

16. Section 1 of FOIA states:

“(1) Any person making a request for information to a public authority is entitled —

(a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and

(b) if that is the case, to have that information communicated to him.”

17. FOIA covers information that is held by a public authority at the time that a request was made. It doesn't cover information in someone's head and it doesn't require a public authority to create information in order to fulfil any request.

18. In this instance, the complainant is asking for a copy of the public authority's stress risk assessment, whether this information is a stand alone document or within a larger risk assessment it will be recorded information, i.e. written information, which outlines how the public authority manages and controls the risks that stress presents in the workplace.

19. A question can be a valid request under FOIA. In this instance, the complainant wants to know whether a specific risk assessment (i.e. recorded information) into stress exists. If the answer to this is yes, the complainant is requesting a copy. Whilst contextual information can be provided in response to an FOI request, FOIA first and foremost covers recorded information held by a public authority. The complainant is seeking any recorded information that would fall within the scope of part 2 of the request.

20. Unfortunately, the public authority has repeatedly refused to confirm whether such information is held. It has provided contextual information as to how it assesses risk, but has stopped short of confirming to the complainant whether a stress risk assessment has been conducted.

21. The Commissioner therefore requires the public authority to reconsider its response to part 2, and to respond to the complainant again as required by section 1 of FOIA.

Other matters

22. The Commissioner's guidance states that internal review outcomes should be provided within twenty working days. This can be extended to forty working days if the matter is particularly complex.

23. In failing to provide an internal review outcome at all, the public authority grossly exceeded this timeframe.

Right of appeal

24. Either party has the right to appeal against this decision notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)
GRC & GRP Tribunals,
PO Box 9300,
LEICESTER,
LE1 8DJ

Tel: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

25. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.
26. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Alice Gradwell
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF